IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No.556 of 2005.

Date of decision :January 11, 2006.

Kamla Devi .. Petitioner.

Versus

State of HP and others .. Respondents.

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Hon'ble Mr. Justice **V.K. Jhanji, J.**

Hon'ble Mr. Justice **Surjit Singh, J.**

Whether approved for reporting?

For the petitioner: Mr. H.K. Paul, Advocate.

For respondents 1 & 2 Mr M.S. Chandel, Advocate General with Mr. R.M. Bisht, Deputy Advocate General.

For respondent No.3: Mr. O.P. Sharma, Advocate.

For respondent No.4: Mr. Surinder Sharma, Advocate.

V.K. Jhanji, J. (Oral)

The present writ petition is directed against order dated 12th November, 2002 passed by the H.P. State Administrative Tribunal, whereby the appointment of the petitioner for the post of Part Time Water Carrier has been quashed.

The appointment of the petitioner came to be challenged by respondent No.4, namely, Smt. Guddi Devi on the ground that the petitioner is not from a Scheduled Caste nor belongs to IRDP family, whereas respondent No.4 is a Scheduled Caste and belongs to IRDP family, yet she had not been recommended for

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Whether Reporters of Local Papers may be allowed to see the Judgment?

appointment. The Tribunal issued notice of the Original Application to the State Government as well as to the petitioner, but neither the petitioner appeared nor the Government produced the record of selection as sought by the Tribunal. In the absence of the petitioner or the record, the Tribunal accepted the averments made in the Original Application filed by respondent No.4 and in consequence thereof quashed the appointment of the petitioner.

The petitioner being aggrieved by the order of the learned Tribunal has filed the present writ petition. In response to the notice of the writ petition, the respondents have filed reply. Respondents 1 and 2 in their reply have stated that the petitioner as well as respondent No.4 belong to Scheduled Caste category and are residents of the same village and equal marks to both in this regard have been awarded by the Selection Committee. Alongwith the reply respondents 1 and 2 have also filed the record of the Selection Committee. On perusal of the same, we find that the Selection Committee on the objective consideration awarded 23.5 marks to the petitioner, whereas 22 marks were awarded to respondent No.4. One other candidate namely, Chuni Lal was awarded 22.5 marks meaning thereby that the petitioner alone was found more suitable as she scored highest marks out of the eight candidates appeared before the Selection Committee.

The opinion of the Selection Committee cannot be interfered with unless malafides on the

part of the Members of the Selection Committee are alleged and proved nor this Court in exercise of the jurisdiction under Article 226 of the Constitution of India will reassess the comparative merits or suitability of the candidates interviewed by the Selection Committee. Otherwise also, once respondent No.4 appeared before the Selection Committee without any protest and selection having been made as per the criterion laid down for the selection, she would be estopped to question the selection process.

In view of the above, the order of the learned Tribunal is not sustainable in law and accordingly is set aside. The selection and appointment of the petitioner is declared to be valid.

No costs.

Copy of the order **DASTI.**

(V.K. Jhanji), J.

January 11, 2006. **(Surjit Singh), J.**
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